

02. 17.01.2023
Ct. No.6
Tanmoy

FMA 866 of 2022

**Astarul Hoque & Ors.
-Versus-
The Union of India & Ors.**

**With
IA No: CAN/1/2022**

Mr. Chittaranjan Chakraborty, Adv.,
Mr. Dip Jyoti Chakraborty, Adv.,
Mr. Sumit Banerjee, Adv.

...for the appellants.

Mr. Rajendra Banerjee, Adv.

...for the Union of India.

Mr. Lalit Mohan Mahata, Ld. AGP,
Mr. Prasanta Behari Mahata, Adv.

...for the State.

Mr. Shamit Sanyal, Adv.,
Ms. Manika Roy, Adv.

...for the NHAI.

By consent of the parties, the appeal and the connected application are taken up together for hearing.

A judgment and order dated March 4, 2022, whereby the writ petition of the appellants being WPA 10775 of 2018 was disposed of, is under challenge in this appeal.

It appears that land of the appellants was acquired by the National Highways Authority of India (NHAI) and notification under Section 3A of the National Highways Act, 1956 (hereinafter referred to as the “1956 Act”) was issued on August 26, 2010.

Being dissatisfied with the compensation amount determined under Section 3G(1) of the 1956 Act, the appellants approached the learned Arbitrator under Section 3G(5) of the 1956 Act. The appellants submitted before the learned Single Judge that they received a copy of the arbitral Award only on August 22, 2017. It was submitted that 9% per annum interest which was awarded by the learned Arbitrator amounting to Rs.87,109/- was not paid to the appellants. Further, the market value of the land in question as on the date of the issuance of notification under Section 3A of the 1956 Act was not determined by the Competent Authority. The writ petitioners prayed for a direction on the Competent Authority to disburse the additional compensation taking into account the market value of the land in terms of Section 3G(7) of the 1956 Act and interest at the rate of 9% per annum thereon.

It was submitted on behalf of the NHAI that the arbitral Award amount was deposited by NHAI with the Competent Authority on March 22, 2017.

Upon recording the submissions as mentioned above, the learned Single Judge disposed of the writ petition with the following direction:-

“Upon consideration of the submissions made on behalf of the parties, this Court is of the view that interest of justice shall be subserved by a direction to the fourth respondent who is the competent authority being the Additional District Magistrate (Land Acquisition), to disburse the amount of additional award decided by the learned Arbitrator in terms of the award as well as the observations made by this Court hereinabove.”

Being aggrieved, the writ petitioners have come up by way of this appeal.

Learned Advocate for the appellants says that not only the amount of Rs.87,109/- has not been paid, the market value of the land in question as on the date of issuance of the notification under Section 3A of the 1956 Act was also not determined by the Authorities.

It has been submitted before us on behalf of NHAI that on August 8, 2019, the enhanced amount has been deposited with the Competent Authority.

We direct the Additional District Magistrate (Land Acquisition), being the Competent Authority, to pay the amount of Rs.87,109/- along with the applicable interest at the rate of 9% per annum from the date of the arbitral Award till the date of payment within four (4) weeks from date.

We are of the view that if the appellants have any further grievance including that regarding non-determination of the market value of the land as on the date of issuance of the notification under Section 3A of the 1956 Act, the appellants will be at liberty to make a comprehensive representation before the Additional District Magistrate (Land Acquisition), being the Competent Authority, with all supporting documents within six (6) weeks from date. If such a representation is made within the time period indicated, the Additional District Magistrate (Land Acquisition), who is the Competent

Authority, shall take a reasoned decision on such representation, in accordance with law and in the light of the arbitral Award, within a period of three (3) months from the date of receipt of the representation, after giving an opportunity of hearing to all concerned parties including the appellants herein and NHAI. The decision so taken shall be communicated to the appellants as well as the NHAI within a week from the date of the decision.

We clarify that we have not gone into the merits of the claim of the appellants. The Competent Authority shall take an informed decision on the representation of the appellants, if made within the time period indicated above.

Since we have not called for affidavits, the allegations in the stay petition shall be deemed not to have been admitted by the respondents.

The appeal being FMA 866 of 2022 and the connected application being IA No: CAN/1/2022 are disposed of.

Let urgent photostat certified copy of this order, if applied for, be made available to the parties upon compliance with all necessary formalities.

(Apurba Sinha Ray, J.)

(Arijit Banerjee, J.)